

Notice of Allowability

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|------------------------|---------------------|--|
| Application No. | Applicant(s) | |
| 09/449,077 | HUNIG, DR. THOMAS | |
| Examiner | Art Unit | |
| Phillip Gambel | 1644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. This communication is responsive to 7/15/04; 7/19/04.
- 2. The allowed claim(s) is/are 46.
- 3. The drawings filed on 4/18/03 are accepted by the Examiner.
- 4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- 5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 - 6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- 7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1. Notice of References Cited (PTO-892)
- 2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3. Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
- 4. Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 5. Notice of Informal Patent Application (PTO-152)
- 6. Interview Summary (PTO-413), Paper No./Mail Date _____.
- 7. Examiner's Amendment/Comment
- 8. Examiner's Statement of Reasons for Allowance
- 9. Other _____.

PHILLIP GAMBEL
Phillip Gambel
Primary Examiner 9/7/04
Art Unit: 1644
TECH CENTRAL 1600

Art Unit: 1644

DETAILED ACTION

1. Applicant's amendment, filed 7/15/04, has been entered.
Claims 1-45 have been canceled.
Claim 46 has been amended.

Applicant's amendment, filed 7/26/04, has been entered.
Claim 46 has been amended.

Claim 46 is pending.

2. An extension of time under 37 C.F.R. § 1.136(a) is required in order to enter applicant's amendment, filed 7/26/04, which places this application in condition for allowance.

According to applicant's amendment, the Commissioner is hereby authorized to charge any fees associated with this response. Therefore, an extension of time for 1 month and the required fee of \$ 55.00 has been charged to Deposit Account No. 13-3402.

REASONS FOR ALLOWANCE

3. The following is an Examiner's Statement of Reasons for Allowance:

Upon reconsideration of applicant's canceled and amended claims, filed 7/15/04 and 7/26/04 in conjunction with satisfying the requirements for the deposit of biological materials under 35 USC 112, first paragraph, the pending claims are deemed allowable. The antibody CMY-2 produced by the hybridoma cell line DSM ACC 2353 appears to be free of the prior art.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (571) 272-0844. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841.

The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phillip Gambel, PhD.
Primary Examiner
Technology Center 1600
September 7, 2004